

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.23209 of 2018

Date of Decision: July 04, 2019

Sharmishtha Yadav

...Petitioner

Versus

State of Haryana & another

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. Vikram Sheoran, Advocate,
for the petitioner.

Mr. Harish Nain, AAG, Haryana,
for the State.

AMIT RAWAL, J.

Prayer in the present writ petition is for promotion to the post of TGT English from the date the junior to the petitioner has been promoted along with all consequential benefits.

As per the averments, petitioner has been working on the post of JBT/PRT in the department of Director, Elementary Education since 12.09.2008 under BC category and his services are governed by Haryana School Education (Group C) State Cadre Service Rules, 2012 (for short, 2012 Rules). In pursuance to the letter dated 27.04.2018 issued by the Director, Elementary Education, Haryana, the process of promotion to the post of TGT in English, Science, Arts, Physical Education, Home Science, Music, Urdu, Sanskrit and Punjabi was initiated. For promotion to the post of TGT English, the following qualification was required:-

“(i) B.A. with atleast 50% marks in English as an elective

subject and 2 year Diploma in Elementary Education; OR
B.A.with atleast 50% as well as in English as an Elective Subject and 1-year Bachelor in Education (B.Ed.); OR
B.A.with atleast 45% marks as well 50% marks in English as an Elective Subject and 1-year Bachelor in Education (B.Ed) in accordance with the NCTE (Recognition norms and procedure) regulations issued from time to time in this regard; OR
Senior Secondary (or its equivalent) with atleast 50% marks and 4 years Bachelor in Elementary Education (B.El. Ed);OR
Senior Secondary (or its equivalent) with atleast 50% marks and 4 year B.A. Ed; OR
B.A.with at least 50% marks as well as in English as an elective subject and 1-year B.Ed. (Special Education);
(ii) In case of B.Ed., English as a teaching subject from a recognized university;
(iii) 3 years experience as Primary Teacher (PRT)/Classical & Vernacular (C&V), Teacher;
(iv) Certificate of having qualified Haryana Teacher Eligibility (HTET)/School Teachers Eligibility Test (STET).”

Mr. Vikram Sheoran, learned counsel representing the petitioner submitted that vide order dated 25.07.2018 (Annexure P-3), many juniors/similarly situated persons were promoted to the post of TGT English with effect from 17.07.2018 and similarly vide order dated 02.09.2018 deprived petitioner chance of promotion on the ground of not possessing qualification of B.Ed with English as a teaching subject, as per 2012 Rules. In fact, the petitioner is having 50% marks in English as an elective subject, 2 years Diploma in Elementary Education and also having higher qualification, i.e., M.A. English with 1st Division, certificate of B.Ed with English as a teaching subject, Annexure P-4 (colly). A person having higher qualification cannot be denied the benefit on hypertechnical ground.

Mr. Harish Nain, learned Assistant Advocate General, Haryana

opposed the aforementioned writ petition by referring to the objections taken in the reply as petitioner sans qualification as referred to above. It was next contended that the higher qualification cannot be a ground for considering the case of the petitioner for promotion. The process of promotion is, thus, in accordance with the rules as the promoted candidates possessed the requisite qualification.

I have heard the learned counsel for the parties and appraised the paper book.

The qualification, referred to above, leaves no manner of doubt that a person should have minimum qualification as referred to therein, but the factum of the petitioner having a master degree in English could not have been ignored by the respondents for the post of TGT English. The elective subject in English that too in graduation, thus, in such circumstances, is of no consequence. Moreover, there are catena of judgments in this regard that a person possessing higher qualification cannot be deprived the benefit, like promotion etc.

There is no denial to the fact that the petitioner possessed higher qualification. In such circumstances, the action of the respondents in not considering the case of the petitioner for promotion is highly arbitrary and illegal.

Resultantly, the writ petition is allowed. Direction is issued to the respondents to consider the case of the petitioner for promotion for the post of TGT English in view of the observations made here-in-above from the date juniors have been promoted and grant all consequential benefits which she is entitled to. This exercise should be done within two months from the date of receipt of certified copy of this order, failing which it shall

entail costs of ₹ 50,000/- to be recovered from the salary of the concerned officer.

July 04, 2019
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No